

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MAN LEWIS,

Plaintiff,

v.

Case No. 2:04-cv-224
HON. ROBERT HOLMES BELL

BILL ELLIOT, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from the plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Defendants filed a motion to dismiss. The Magistrate Judge recommended that the motion should be denied. No objections were filed by defendants. Plaintiff filed a motion for summary judgment. Plaintiff argues that he is entitled to summary judgment, although he argues that there exists a genuine issue of material fact on his claims. Plaintiff has failed to show that he is entitled to summary judgment. Plaintiff's argument that defendants failed in their burden of establishing a defense to plaintiff's claims lacks merit. It is plaintiff's burden to prove his claims.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that defendants' motion to dismiss (docket #13) and plaintiff's motion for summary judgment (docket #17) are DENIED.

Date: August 30, 2005

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE